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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,087	02/11/2002	Chung-Fan Chiou	32350-178362	1547

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VENABLE, BAETJER, HOWARD AND CIVILETTI, LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER

FORMAN, BETTY J

ART UNIT	PAPER NUMBER
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1634

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group II, Claims 41-54 in papers filed 14 May 2003 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 41-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claims 41-54 are rejected as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: steps for detecting nucleic acids. The claims are drawn to a method for detecting nucleic acid. However, the claims do not recited method steps of nucleic acid detection. Therefore, the claims are incomplete for omitting the essential step of nucleic acid detection.

b. Claim 42 is indefinite because the claim is drawn to differing methods of labeling i.e. fluorescence, chemiluminescence, electric signal and radioactive. However, the different

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8. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gentalen et al (U.S. Patent No. 6,306,643, filed 24 August 1998) in view of Chenchik et al (U.S. Patent No. 6,489,159 filed 29 September 2000).

Regarding Claim 54, Gentalen et al teach the method for detecting nucleic acids comprising providing at least one probe set comprising multiple types of oligonucleotides (i.e. probe pools), providing a solid support having at least one unique addressable area, attaching the probe set to the addressable area, allowing sample nucleic acids to hybridize with probe sets, labeling the sample nucleic acids before hybridization and determining the results of hybridization (Column 2, lines 27-67; Column 3, line 62-Column 4, line 38; and Column 11, lines 1-11) wherein the quantity of each type of oligonucleotide may be varied (Column 3, lines 5-14) but they do not specifically teach the quantity corresponds to its affinity to the target sequence. However, probe quantity corresponding to target affinity was well known in the art at the time the claimed invention was made as taught by Chenchik et al. (Claim 7). Chenchik et al teach that quantity of each oligonucleotide is normalized to thereby provide a control support to which test supports are compared (Column 7, line 49-column 8, line 28). It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to modify the support of Gentalen et al by providing normalized quantities of each type of probe to the support to thereby provide a control support to which test samples are compared as desired by Chenchik et al (Column 7, line 49-column 8, line 28).

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Conclusion

9. No claim is allowed.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BJ Forman whose telephone number is (703) 306-5878. The examiner can normally be reached on 6:30 TO 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on (703) 308-1119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-8724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.



BJ Forman, Ph.D.
Patent Examiner
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June 18, 2003